

PR#9833

PARRISH, DANIEL

1/14/2008

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 STATE OF OKLAHOMA, ex rel.

4 W.A. DREW EDMONDSON, in his capacity as
5 ATTORNEY GENERAL OF THE STATE OF
6 OKLAHOMA, and OKLAHOMA SECRETARY
7 OF THE ENVIRONMENT C. MILES TOLBERT,
8 in his capacity as the TRUSTEE FOR NATURAL
9 RESOURCES FOR THE STATE OF OKLAHOMA,

10 Plaintiffs,

11 vs.

No. 05-CV-0329 GFK-SAJ

12 TYSON FOODS, INC., TYSON POULTRY, INC.,
13 TYSON CHICKEN, INC., COBB-VANTRESS, INC.,
14 AVIAGEN, INC., CAL-MAINE FOODS, INC.,
15 CAL-MAINE FARMS, INC., CARGILL, INC.,
16 CARGILL TURKEY PRODUCTION, LLC,
17 GEORGE'S, INC., GEORGE'S FARMS, INC.,
18 PETERSON FARMS, INC., SIMMONS FOODS, INC.,
19 and WILLOW BROOK FOODS, INC.,

20 Defendants.

21 VIDEO DEPOSITION OF DANIEL JOSEPH PARRISH

22 TAKEN ON BEHALF OF THE DEFENDANTS

23 ON JANUARY 14, 2008, BEGINNING AT 9:37 A.M.

24 IN OKLAHOMA CITY, OKLAHOMA

25 Videographer: Stephanie Britton

Reported by: Lana L. Phillips, CSR, RPR

EXHIBIT

4

PR#9833

PARRISH, DANIEL

1/14/2008

Page 14

1 waste by law is required to receive a poultry
2 license from the Oklahoma Department of
3 Agriculture, Food, and Forestry.

4 Q All right. And there are rules and
5 -- there are rules in effect in Oklahoma that
6 dictate where, when, and how poultry litter can
7 be land-applied also; correct?

8 A Yes.

9 Q And your division is responsible for
10 oversight of the -- of those rules and their
11 implementation; correct?

12 A The AEMS division at the Department
13 of Agriculture is responsible for oversight, but
14 clearly do not have enough staff and budget to
15 even begin to oversight what we need to.

16 Q Your division has field inspectors;
17 correct?

18 A Yes.

19 Q Now, what are the primary objectives
20 of the litter utilization program that your
21 division administers?

22 A The primary objectives are, by law,
23 to ensure that poultry waste is applied at
24 agronomic rates, applied so that the crop that is
25 on the field where it's applied to can uptake the

PR#9833

PARRISH, DANIEL

1/14/2008

Page 19

1 of the Illinois River watershed registered with
2 your division?

3 A To my knowledge, yes, they are. But
4 we do not have enough staff or budget that we've
5 spent time going up and down the road to make
6 sure every one of them is.

7 Q All right. So there's a possibility
8 there could be one tucked away somewhere you
9 don't know about, but the fact is you just don't
10 know if that's true or not true?

11 A That is right. And I say that only
12 because last year we found one, not in the
13 Illinois River watershed, but we found one that
14 hadn't been registered since this Act was put
15 into effect. So that's why I would be hesitant.

16 Q All right. Let's go next over to
17 Section 10-9.5. It's titled Application to
18 Register or Expand Poultry Operation.

19 A Yes, I'm there.

20 Q All right. Sub section B says:
21 "The application to register to operate a new or
22 previously unregistered poultry feeding operation
23 or expanding operation shall contain certain
24 information."

25 And then the statute lists a number

PR#9833

PARRISH, DANIEL

1/14/2008

Page 64

1 provisions of Section 7 of this Act."

2 Q All right, sir. You would agree,
3 according to the legislative statement in the
4 Registered Poultry Feeding Operations Act, an
5 animal waste management plan must be designed to
6 protect the natural resources of the state;
7 right?

8 A Yes.

9 Q All right. Now, let's go back, sir,
10 to Section 10-9.7.

11 Generally speaking, sir, what is the
12 purpose of an animal waste management plan?

13 A Executive summary purposes of an
14 animal waste management plan is to identify and
15 spell out specifically how the wastes are going
16 to be handled from that specific operation.

17 Q All right. Let's go to the
18 regulations, Exhibit 2, and the second page of
19 that exhibit. So that would be Title 35, Section
20 17-5-3, Subsection (b), on Animal Waste
21 Management Plan.

22 Are you there with me, sir?

23 A Yes, I am.

24 Q All right. I want to look down to
25 Subsection (3), where it says: "The Animal Waste

PR#9833

PARRISH, DANIEL

1/14/2008

Page 65

1 Management Plan shall be prepared by USDA NRCS or
2 an entity approved by the State Department of
3 Agriculture."

4 Did I read that correctly?

5 A Yes, you did.

6 Q Can you tell us, sir, what USDA NRCS
7 stands for?

8 A United States Department of
9 Agriculture, Natural Resources Conservation
10 Service.

11 Q What is the Natural Resources
12 Conservation Service?

13 A It is a division of the United
14 States Department of Agriculture that is involved
15 in conservation practices mainly for agriculture,
16 to my knowledge.

17 Q And within the broad term
18 "conservation practices," the NRCS also involves
19 itself in environmental practices related to
20 agricultural operations as well; correct?

21 A NRCS involves itself in
22 environmental practices, but makes it very clear
23 that they're not involved in any of the
24 regulatory issues.

25 Q All right. But one -- what I meant,

PR#9833

PARRISH, DANIEL

1/14/2008

Page 66

1 sir, so let me clarify this question, is, one of
2 the areas that the NRCS is involved in is helping
3 to minimize or prevent adverse environmental
4 impacts from agricultural operations?

5 A In my discussions with NRCS
6 personnel and looking at their documents, I would
7 agree with that statement.

8 Q All right. Now, the rules require
9 that these animal waste management plans be
10 prepared by NRCS or an entity approved by the
11 State Department of Agriculture.

12 In the practical sense, who is in
13 fact writing these plans?

14 A Plans have been written by USDA
15 Natural Resources Conservation Services personnel
16 in each county. They've also been written by two
17 part-time soil scientists that the Department has
18 under contract.

19 Q Okay. So those are the two primary
20 resources for a poultry operator: Either come to
21 your division and have one of the soil scientists
22 prepare a plan, or go to the county NRCS office
23 and have someone prepare the plan.

24 Is that what I'm understanding?

25 A To my knowledge, that has been the

PR#9833

PARRISH, DANIEL

1/14/2008

Page 199

1 scope of your group would include complaints
2 related to the use of poultry litter; correct?

3 A Yes.

4 Q Now, I think you covered this to a
5 certain degree when we were talking about the
6 water well hypothetical.

7 But if a registered poultry feeding
8 operator is violating the Act, what steps are
9 available to you and ODAFF to take corrective
10 action?

11 A When it is determined by our
12 assessment that they are in violation of the law,
13 then we can take actions, including corrective
14 actions, including fines. Those are our general
15 that we can do.

16 However, we have four and a half --
17 "half" because that person is a half CAFO, half
18 poultry -- four and a half inspectors to inspect
19 and investigate, for many registered poultry
20 operations, anything dealing with poultry,
21 whether it's applicators. And we do not begin to
22 have enough staff or enough budget to even begin
23 to enforce the rules and the regulations.

24 Q All right. Well, I'm -- I have to
25 move to strike that last part of your answer, as

PR#9833

PARRISH, DANIEL

1/14/2008

Page 258

1 waste be disposed of in a permitted landfill,
2 rather than land-applied?

3 MR. GARREN: Object to form,
4 predicate, foundation.

5 THE WITNESS: I'm not aware of, only
6 because I've not had discussions with other state
7 regulatory people about that subject matter.

8 Q (BY MR. McDANIEL) Are you aware of
9 any poultry -- registered poultry feeding
10 operator in the Illinois River watershed who is
11 currently operating in violation of his or her
12 animal waste management plan?

13 MR. GARREN: Again, objection as to
14 form.

15 THE WITNESS: I can't answer that
16 question, because we don't have enough staff for
17 me to be able to answer that question -- that we
18 are doing constant inspections and testing all
19 that. I could not answer that question simply
20 because we do not have enough people or budget to
21 be able to determine an answer to that question.

22 Q (BY MR. McDANIEL) All right, sir.
23 And I've got to move to strike that answer.

24 The question was, sir, are you aware
25 of any poultry -- registered poultry feeding